

ORDINANCE NO. 17955-01-2008

AN ORDINANCE AMENDING CHAPTER 6 "ANIMALS AND FOWL" OF ARTICLE I, SECTION 6-1 "DEFINITIONS" OF THE CITY CODE TO ADD DEFINITIONS AND ARTICLE II SECTION 6-13 "RESTRAINT OF ANIMALS" OF THE CITY CODE TO PROVIDE ADDITIONAL REQUIREMENTS AND REGULATIONS FOR UNATTENDED TETHERING OF DOGS; PROVIDING SPECIFICATIONS; PROVIDING FOR EXCEPTIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the purpose of Section 6, "RESTRAINT OF ANIMALS" of the City Code is to encourage pet safety and responsible pet ownership;

WHEREAS, the Public Health Department determined that the City Code provisions dealing with the regulations must be amended to meet state law requirements and should be strengthened to provide greater clarity and protection for animal and human safety;

WHEREAS, it is advisable to amend Article III, Section 6 of the City Code to provide additional requirements on restraint of dogs to insure the health and humane treatment of dogs.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, AS FOLLOWS:

SECTION 1.

SECTION 1. That Section 6-1 "Definitions." of Chapter 6 of The Code of the City of Fort Worth, Texas, is hereby amended by adding the following definitions:

***Direct Physical Control* means within the owner's observation and in such close proximity as to permit the owner reasonable opportunity to control the animal, should it become necessary to do so in order to protect the animal, a human or another animal from harm.**

Properly Fitted with respect to a collar or other neck restraint means one that measures the circumference of a dog's neck plus at least one inch. With respect to a harness, properly fitted means one that is of an adequate size, design, and construction as appropriate for the dog's size and weight.

Dog Tethering means using a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object or trolley system.

That Section 6- 13 "Restraint of Animals" of Chapter 6 of the Code of the City of Fort Worth, Texas, is hereby amended to amend subsection (d) and to add new subsections (e), (f), (g), and (h) to read as follows:

(d) It shall be unlawful for a person to use a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object or trolley system.

(e) It is an affirmative defense to a violation of subsection (d) that the dog tethering:

- (1) is during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity;
- (2) is required to protect the safety or welfare of a person or the dog, and the dog's owner maintains direct physical control of the dog;
- (3) occurs in the direct physical control of the owner in a designated City dog park; or
- (4) occurs on the owner's premises and:
 - a. while the dog is within the owner's direct physical control; and
 - b. prevents the dog from advancing to within fifteen (15) feet of the edge of any public street.

(f) The affirmative defenses provided in subsection (e) are only available if the following specifications are met:

- (1) The chain, rope, tether, leash, cable, or other device is attached to a properly fitted collar or harness worn by the dog;
- (2) The chain, rope, tether, leash, cable, or other device is not placed directly around the dog's neck;
- (3) The chain, rope, tether, leash, cable, or other device does not exceed 1/20th of the dog's body weight;
- (4) The chain, rope, tether, leash, cable, or other device, by design and placement allows the dog a reasonable and unobstructed range of motion without entanglement, and

- (5) The dog has access to adequate shelter and clean and wholesome water.

(g) A person commits an offense if the person fails to comply with this Section.

- (1) An offense under this Section is a Class C misdemeanor. If a person fails to comply with this section with respect to more than one dog, the person's conduct with respect to each dog constitutes a separate offense.

- (2) An offense under this Section is punishable by a fine not to exceed two thousand dollars (\$2,000.00).

(h) This section does not prohibit a person from walking a dog with a hand-held leash.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 5.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of the ordinances amended herein, which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.


SECTION 6.

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

SECTION 7.

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:


Assistant City Attorney

ADOPTED: January 22, 2008

EFFECTIVE: January 23, 2008

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 1/22/2008 - Ordinance No. 17955-01-2008

DATE: Tuesday, January 22, 2008

LOG NAME: 50TETHERING

REFERENCE NO.: G-16025

SUBJECT:

Adopt Ordinance Amending City Code, Chapter 6, Animals and Fowl, Article I, Section 6-1, and Article II, Section 6-13, Pertaining to the Restraining/Tethering of Unattended Dogs

RECOMMENDATION:

It is recommended that the City Council adopt the attached ordinance amending the City Code, Chapter 6, Animals and Fowl, Article I, Section 6-1, and Article II, Section 6-13, pertaining to the restraint/tethering of unattended dogs.

DISCUSSION:

In 2007, a new state law regarding dog tethering went into effect that prohibits dog owners from leaving their pet outside and unattended by use of a restraint that unreasonably limits the dog's movement:

1. Between the hours of 10 p.m. and 6 a.m.;
2. Within 500 feet of the premises of a school; or
3. In the case of extreme weather conditions.

The law identifies the term "unreasonably limits a dog's movement" to include:

1. The use of a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;
2. The use of a restraint that is either less than 10 feet or less than five times the length of the dog, whichever is greater;
3. The use of a restraint in an unsafe condition; or
4. The use of a restraint that could cause injury to the dog.

The Public Health, Law and Police departments have reviewed the new state law and have concluded that if it were adopted locally as passed, it would be very difficult to enforce. The City's current ordinance allows for restraint/tethering as long as the dog is within an adequate enclosure (fence). This is less restrictive than the new state law. Therefore, the current ordinance must be amended to, at minimum, meet state law requirements.

The Public Health Department recommends that the City Council amend the code to meet the requirements of the new state law. The amendments would also include provisions that prohibit dog owners from leaving their pet outside and unattended by use of a restraint or tether attached to an immovable object or trolley system, regardless of time or collar/tether type. This recommendation addresses not only the difficulties enforcing the recently passed state law, but also, and more importantly, addresses animal safety issues and

aggressive animal research findings associated with tethering.

Other Texas cities have adopted such total prohibitions on tethering, including Austin and Irving. The American Society for the Prevention of Cruelty to Animals (ASPCA) and Humane Society of the United States are also promoting anti-tethering campaigns.

The proposed ordinance amendment provides for some exceptions to the tethering prohibition, including:

1. During a lawful animal event, veterinary treatment, grooming, training or law enforcement activity;
2. When tethering is required to protect the safety or welfare of a person or the dog, and the dog's owner remains with the dog throughout the period of restraint;
3. When tethering occurs in the direct physical control of the owner in a designated city dog park; and
4. When tethering occurs on the owner's premises and while the owner is in direct physical control and prevents the dog from advancing to within 15 feet from the edge of any public street.

These exceptions are only applicable if the type of temporary restraint eliminates the potential for injury or harm to the animal.

An offense under the amended ordinance will result in a fine of up to \$2,000.

The amended ordinance will become effective following adoption and publication. An "education-first" approach; however, the enforcement will be in place for the first several months, except for serious violations.

FISCAL INFORMATION/CERTIFICATION:

The Finance Director certifies that this action will have no material effect on City funds.

TO Fund/Account/Centers

FROM Fund/Account/Centers

Submitted for City Manager's Office by:

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Originating Department Head:

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